

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION IX**

IN THE MATTER OF:  
A-American Environmental  
Removal Site  
Alhambra, California

Respondents listed in Appendix A  
United States Department of  
Veterans Affairs

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ADMINISTRATIVE ORDER ON  
CONSENT FOR THE RECOVERY OF  
RESPONSE COSTS

CERCLA Docket No. 9-2005-0014

Proceeding Under Section 122(h) of the  
Comprehensive Environmental Response,  
Compensation and Liability Act, as  
amended, 42 U.S.C. § 9622(h)

## **I. JURISDICTION AND GENERAL PROVISIONS**

1. This Administrative Order on Consent for the Recovery of Response Costs (the "Order") is entered into voluntarily by the United States Environmental Protection Agency ("EPA"), the persons, corporations or other entities identified in Appendix A, attached and incorporated into this Order (collectively, the "Respondents," each individually a "Respondent"), and the United States Department of Veterans Affairs (the "VA"). This Order provides for the reimbursement of response costs that EPA incurred in connection with the removal action regarding the A-American Environmental Superfund Removal Site, 3033 Mission Road, in Alhambra, California (the "Site"), as described in the EPA general notice letter dated on or about January 27, 2005.

2. This Order is entered into under the authority vested in the President of the United States by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D and redelegated to the Superfund Branch Chiefs pursuant to Regional Delegation 1290.20 (September 29, 1997).

3. EPA has notified the state of California of this Order.

4. EPA, the Respondents and the VA (collectively, the "Parties") recognize that this Order has been negotiated in good faith and that this Order is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by the Respondents and the VA (collectively, the "Settling Parties") in accordance with this Order do not constitute an admission of any liability by any Settling Party. The Settling Parties do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the facts or allegations contained in this Order. The Settling Parties agree to comply with and be bound by the terms of this Order and further agree not to contest the basis or validity of this Order or its terms in any proceedings to enforce this Order.

5. EPA has incurred response costs at or in connection with the Site. EPA has determined that the total past and projected response costs of the United States at or in connection with the Site exceed \$500,000, excluding interest.

6. By entering into this Order, the mutual objective of the Parties is to avoid difficult and prolonged litigation by allowing the Settling Parties to make a cash payment to resolve their alleged civil liability under Section 107 of CERCLA, 42 U.S.C. § 9607, with regard to the response costs that EPA incurred in oversight of the removal action regarding the Site as provided in the Covenants by EPA in Section VII, subject to the Reservations of Rights of EPA in Section VIII, and as provided in the Covenant Not to Sue by Respondents and the VA in Section IX.

## **II. PARTIES BOUND**

7. This Order shall be binding on EPA, the VA, and on the Respondents, their successors and assigns. Any change in ownership or corporate or other legal status of any Respondent, including but not limited to, any transfer of assets or real or personal property, shall in no way alter such Respondent's responsibilities under this Order. Each signatory to this Order certifies that he or she is authorized to enter into the terms and conditions of this Order and to bind legally the Party represented by him or her.

## **III. DEFINITIONS**

8. Unless otherwise expressly provided herein, terms used in this Order, including any attached appendices, that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order, or in any appendices attached hereto, the following definitions shall apply:

a. "Order" shall mean this Administrative Order on Consent for the Recovery of Response Costs, EPA Docket No. CERCLA 9-2005-0014.

b. "AAE" shall mean A-American Environmental, Inc.

c. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*

d. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

e. "DTSC" shall mean the California Department of Toxic Substances Control.

f. "Effective Date" shall be the effective date of this Order as provided in Section XVI.

g. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

h. "Interest" shall mean interest at the current rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time that the interest accrues. The rate of interest is subject to change on October 1 of each year.

i. "National Contingency Plan" or "NCP" shall mean the National Oil and

Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

- j. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.
- k. "Parties" shall mean EPA, the Respondents listed in Appendix A, and the VA.
- l. "RCRA" shall mean the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act), as amended, 42 U.S.C. §§ 6901, *et seq.*
- m. "Removal Action" shall mean all activities to assess, characterize and remove hazardous substances from the Site, including without limitation the activities described in the EPA general notice letter dated on or about January 27, 2005.
- n. "Respondents" shall mean those persons, corporations or other entities identified in Appendix A.
- o. "Response Costs" shall mean those costs that EPA incurred in performing the removal action at the Site as described in the EPA general notice letter dated on or about January 27, 2005, including interest, direct and indirect costs, through the Effective Date of this Order, as described in Section IV of this Order.
- p. "Section" shall mean a portion of this Order identified by a Roman numeral.
- q. "Settling Parties" shall mean both the Respondents identified in Appendix A and the VA.
- r. "Site" shall mean the A-American Environmental Superfund Removal Site, located at 3033 Mission Road, in Alhambra, California.
- s. "United States" shall mean the United States of America, including all of its departments, agencies, and instrumentalities, which includes without limitation EPA and the VA.
- t. "VA" shall mean the United States Department of Veterans Affairs and any successor departments or agencies of the United States, which is resolving any claims that have been or could be asserted against it with regard to the Site as provided in this Order.

#### **IV. BACKGROUND**

9. Paragraphs 10 through 13 below contain a summary of the Site background as alleged by EPA which, for purposes of this Order, the Settling Parties neither admit nor deny.

#### 10. Response Action

a. AAE operated the Site as a treatment, storage and disposal facility from 1999 to August 2001. In August 2001, AAE terminated all of its operations, except facility closure under the oversight of the DTSC.

b. On March 4, 2002, after AAE failed to complete removal of hazardous substances from the Site as part of its business closure obligations, DTSC requested an EPA On-Scene Coordinator to assist in the assessment and disposal of hazardous substances at the Site. On March 29, 2002, DTSC requested in writing that EPA assume the lead role in overseeing or conducting the removal of hazardous substances from the Site. On or about April 2, 2002, at DTSC's request and in response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604.

c. When EPA commenced the response action at DTSC's request, there remained at the Site 61 lab-packed or transport-packaged containers of reactive and poisonous chemicals, and approximately 400 55-gallon drums in substandard and deteriorating condition with inconsistent labeling of the contents. Many of these drums appeared to contain flammable liquids; however, many more had missing or defaced labels, making it impossible to identify the contents of the drums. Through interviews with AAE employees, EPA believes that AAE commingled the hazardous substances coming to the Site for treatment or disposal. AAE also intentionally defaced drums and labels to obscure the source information and the contents, with the apparent intention of increasing the difficulty for state or federal regulators to monitor AAE's processing and handling of hazardous wastes.

d. Based on DTSC's efforts to identify hazardous wastes present at the Site, EPA learned that the unidentified wastes included picric acid, benzoyl peroxide, sodium peroxide, dinitrophenol, sodium amide, methyl lithium and lead contaminated soils. There also were 28 above-ground storage tanks containing approximately 27,000 gallons of hazardous waste, of which EPA already had identified at least 750 gallons of corrosive hazardous waste (pH greater than 13). Moreover, there were numerous small bottles of flammables, corrosives, poisons and metal solutions. Additionally, there were approximately two tons of spent nickel-cadmium batteries. AAE abandoned hazardous wastes at the Site in close proximity to other, incompatible hazardous wastes.

e. Threats to public health or the environment stemmed from the potential for deteriorating conditions at the abandoned Site, and the potential for reaction among incompatible materials, which EPA determined to create an imminent and substantial threat of a catastrophic release of hazardous substances caused by fire or explosion in a densely populated community.

f. Manifests for hazardous wastes coming to the Site indicate that the Respondents and the VA generated or arranged for the treatment, storage or disposal of such wastes that were at Site.

11. In performing a response action, EPA incurred response costs at or in connection with the Site. EPA completed the Removal Action in accordance with the NCP.

12. EPA alleges that the Respondents and the VA are each a liable party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and that the Respondents are jointly and severally liable for response costs incurred or to be incurred at or in connection with the Site.

13. EPA has determined that the total past Response Costs of the United States at or in connection with the Site are approximately \$683,755.

#### **V. PAYMENT OF RESPONSE COSTS**

14. Payment by Respondents. Within sixty (60) days after the Effective Date of this Order, Respondents shall pay to EPA the aggregate total of \$241,392.55, to be paid by the respective respondents in the amounts as set forth in Appendix B, attached and incorporated into this Order. Payments by the Respondents shall be made by certified check or by Electronic Funds Transfer ("EFT") in accordance with current EFT procedures to be provided to the Respondents by EPA, and all payments shall be accompanied by a notice statement identifying the name and address of the party making payment, the amount of the payment, the Site name, the EPA Region and Site/Spill ID Number (09JC), and the EPA docket number for this Order. Payments by certified check and notices of payments shall be made to:

EPA Superfund Region 9  
Attn: Superfund Accounting  
P.O. Box 360863M  
Pittsburgh, PA 15251

15. Payment by the VA.

a. As soon as reasonably practicable after the Effective Date of this Order, the United States, on behalf of the VA, shall pay to EPA the total of \$18,106.57. Payment shall be made by certified check or by EFT, and all payments shall be accompanied by a notice statement identifying that payment on behalf of the VA has been made, the amount of the payment, the Site name, the EPA Region and Site/Spill ID Number (09JC), and the EPA docket number for this Order. Payments by certified check and notices of payments shall be made to:

EPA Superfund Region 9  
Attn: Superfund Accounting  
P.O. Box 360863M  
Pittsburgh, PA 15251

b. If the payment required by this Paragraph is not made as soon as reasonably practicable, the appropriate EPA Regional Branch Chief may raise any issues relating to payment

to the appropriate United States Department of Justice Assistant Section Chief for the Environmental Defense Section. In any event, if this payment is not made within 120 days after the Effective Date of this Order, EPA and the United States Department of Justice have agreed to resolve this issue within 30 days in accordance with a letter agreement dated December 28, 1998.

c. The Parties recognize and acknowledge that the payment obligations of the VA under this Order can only be paid from appropriated funds legally available for such purpose. Nothing in this Order shall be interpreted or construed as a commitment or requirement that the VA obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

16. EPA shall deposit the total amount to be paid pursuant to this Order into the EPA Hazardous Substance Superfund.

17. At the time of payment, each Settling Party also shall send notice that payment has been made to:

David Wood  
Superfund Accounting (PMD-6)  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105

Such additional notice shall reference the amount of the payment, the Site ID Number (09JC) and the EPA docket number for this action.

## **VI. FAILURE TO COMPLY WITH ORDER**

18. Interest on Late Payments. If a Settling Party fails to make a respective payment required by Paragraphs 14 and 15 by the required due date, Interest shall accrue on the unpaid balance through the date of payment.

19. Stipulated Penalty.

a. If any respective payment due to EPA under Paragraph 14 is not paid by the required date, the respective Respondent shall be in violation of this Order and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 18, \$500.00 per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall be made payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the check, shall reference the name and address of the party making payment, the Site name, the Site ID (09JC), and the EPA Docket Number for

this action. The payment and notice for stipulated penalties shall be directed to:

EPA - Cincinnati Accounting Operations  
Attention: Region 9 Receivables  
P.O. Box 371099M  
Pittsburgh, PA 15251

c. At the time of each payment, a notice also shall be sent as directed in Paragraphs 14 and 17.

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Respondents of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Order.

20. In addition to the Interest and stipulated penalty payments required by this Section and any other remedies or sanctions available to EPA by virtue of Respondents' failure to comply with the requirements of this Order, if any Respondent fails or refuses to comply with the requirements of this Order, EPA may seek to enforce the Order in accordance with Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3) against that Respondent. If the United States, on behalf of EPA, brings an action to enforce this Order, Respondents shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

21. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued against any Respondent pursuant to this Order. Payment of stipulated penalties shall not excuse any Respondent from any other obligation required by this Order.

## **VII. COVENANTS BY EPA**

22. Covenant Not to Sue the Respondents by EPA. Except as specifically provided in Section VIII (Reservations of Rights by EPA), EPA covenants not to sue or take administrative action against the Respondents pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for Response Costs. This covenant shall take effect for each Settling Party on receipt by EPA of the respective amounts required by Section V (Payment of Response Costs) and any amounts due under Section VI (Failure to Comply with Order). This covenant not to sue is conditioned on the satisfactory performance by the Respondents of their respective obligations under this Order. This covenant not to sue extends only to the Respondents and does not extend to any other person.

23. Covenant for the VA by EPA. Except as specifically provided in Section VIII (Reservation of Rights by EPA), EPA covenants not to take administrative action against the VA pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for Response Costs. This covenant



shall take effect on receipt by EPA of all payments required by Section V (Payment of Response Costs). This covenant is conditioned on the satisfactory performance by the VA of its obligations under this Order. This covenant extends only to the VA and does not extend to any other person.

### **VIII. RESERVATIONS OF RIGHTS BY EPA**

24. EPA reserves, and this Order is without prejudice to, all rights against the Settling Parties with respect to all matters not expressly included within the Covenants by EPA in Section VII. Notwithstanding any other provision of this Order, EPA reserves all rights against the Settling Parties with respect to:

- a. liability for failure of any of the Settling Parties to meet a requirement of this Order;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Response Costs covered by the terms of this Order;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;
- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

25. Nothing in this Order is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States may have against any person, firm, corporation or other entity that is not a signatory to this Order.

### **IX. COVENANT NOT TO SUE BY RESPONDENTS AND THE VA**

26. Covenant Not to Sue by Respondents. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Response Costs or this Order, including but not limited to:

- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claims arising out of the response actions at the Site for which the Response Costs were incurred, including any claim under the United States Constitution, the Constitution of the State of California, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; and

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Response Costs.

27. Covenant by the VA. The VA hereby agrees not to assert any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612 or 9613, or any other provision of law with respect to the Response Costs or this Order. This covenant does not preclude demand for reimbursement from the Superfund of costs incurred by the VA in the performance of its duties (other than pursuant to this Order) as lead or support agency under the National Contingency Plan (40 C.F.R. Part 300).

28. Nothing in this Order shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

29. Each Settling Party agrees not to assert any claims and to waive all claims or causes of action that it may have for all matters relating to the Site, including for contribution, against any person where the person's liability to that Settling Party with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

30. The waiver in Paragraph 29 shall not apply with respect to any defense, claim, or cause of action that a Settling Party may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against the Settling Party. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of RCRA, 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

## **X. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION**

31. The Parties agree that this Order constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that the Settling Parties are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for “matters addressed” in this Order. The “matters addressed” in this Order are the Response Costs.

32. The Parties agree that this Order constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which the Settling Parties have resolved their liability for the Response Costs.

33. Except as provided in Section IX (Covenant Not to Sue by Respondents and the VA), nothing in this Order precludes the United States or the Respondents from asserting any claims, causes of action, or demands against any person not a Party to this Order for indemnification, contribution, or cost recovery. Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional recovery of Response Costs or any response action, and to enter into settlements that provide contribution protection to such persons.

34. Except as provided in Paragraph 29 (Non-Exempt De Micromis Waiver), nothing in this Order shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Order. Except as otherwise provided by this Order, the Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action that they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

35. The Settling Parties agree that with respect to any suit or claim for contribution brought by them for matters related to this Order, they will notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. The Settling Parties also agree that, with respect to any suit or claim for contribution brought against them for matters related to this Order, they will notify EPA in writing within 10 days of service of the complaint or claim on them. In addition, the Settling Parties shall notify EPA within 10 days of service or receipt of any Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Order.

36. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of future response costs, or other relief relating to the Site, the Settling Parties shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based on any contention that the claims raised in the subsequent proceeding were or should have been resolved through this Order; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by EPA set forth in Section VII.

## **XI. ACCESS TO INFORMATION**

37. Respondents shall provide to EPA, on request, copies of all documents and information within their possession or control, or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the response action. Respondents also shall make available to EPA, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the response action.

38. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Order to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA, or if EPA has notified Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents.

39. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If any Respondent asserts such a privilege in lieu of providing documents, it shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by the Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

40. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

## **XII. RECORD RETENTION**

41. Until 5 years after the Effective Date, each Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in

any manner to the performance of the response action or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Respondents also shall instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the response action consistent with this Paragraph.

42. At the conclusion of this document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such records or documents, and, on request by EPA, Respondents shall deliver any such records or documents to EPA. A Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If a Respondent asserts such a privilege, it shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by the Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

43. Each Respondent hereby certifies that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the state of California and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

44. The United States acknowledges that the VA: 1) is subject to all applicable federal record retention laws, regulations, and policies; and 2) has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

### **XIII. NOTICES AND SUBMISSIONS**

45. Whenever, under the terms of this Order, notice is required to be given or a document is required to be sent by one Party to another, such notice shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Excepting additional notices as may be required in Paragraphs 14, 15, 17 and 19, written notice as specified herein shall constitute complete satisfaction of any written notice requirement of this Order with respect to EPA, the Respondents, and the VA.

As to EPA:

John Jaros

EPA, Region IX (SFD 9)  
75 Hawthorne Street  
San Francisco, California 94105

As to the Respondents:  
See Contact Information in Appendix A.

As to the VA:

Dept. of Veterans Affairs  
Veterans Health Administration (10NB)  
810 Vermont Avenue, NW  
Washington, DC 20420  
Attn: John G. Staudt

Paul D. Tanaka  
U.S. Department of Justice  
Environment and Natural Resources Division  
Environmental Defense Section  
P.O. Box 23986  
Washington, D.C. 20026-3986

#### **XIV. INTEGRATION**

46. This Order constitutes the final, complete and exclusive Administrative Order on Consent and understanding among the Parties with respect to the settlement embodied in this Order. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Order.

#### **XV. PUBLIC COMMENT**

47. This Order shall be subject to a public comment period of not less than 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, EPA may modify or withdraw its consent to this Order if comments received disclose facts or considerations that indicate that this Order is inappropriate, improper or inadequate.

#### **XVI. EFFECTIVE DATE**

48. The effective date of this Order shall be the date on which EPA issues written notice that the public comment period pursuant to Section XV has closed and that comments received, if any, do not require modification of, or EPA withdrawal from, this Order.

## **XVII. ATTORNEY GENERAL APPROVAL**

49. The United States Attorney General or his designee has approved the settlement embodied in this Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1).

Each undersigned representative of the Parties is authorized to enter into the terms and conditions of this Order and to bind the Parties to this document.

[Signatures on subsequent pages.]

It is so ORDERED and Agreed this 21<sup>st</sup> day of Sep, 2005.

BY: 

DATE: 9/21/05

Daniel A. Meer  
Branch Chief  
Response, Planning and Assessment Branch  
U.S. Environmental Protection Agency, Region 9

[Respondents' and the VA's signatures on subsequent pages.]



## **Appendix A**

### **LIST OF RESPONDENTS TO ORDER 9-2005-0014**

- 1) Alger Manufacturing Company, Inc.  
Duane Femrite, CEO  
724 South Bon View Avenue  
Ontario, California 91761
- 2) American Fabrication Corp.  
Greg Knox, President  
2891 Via Martens  
Anaheim, California 92806
- 3) California Acrylic Inc., d.b.a. CalSpas  
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- 4) City of Los Angeles, Dept. of Public Works  
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- 5) County of Los Angeles  
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- 6) Duthie Electric  
Everardo Beckrill  
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- 7) Epmar Corporation  
Joseph Matange, President  
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- 8) EZ Lube, Inc.  
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- 9) FedEx Ground Package System, Inc.  
Jerry Swart  
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Moon Township, Pennsylvania 15108
- 10) Flint Ink North America Corporation  
John Vineyard, Esq.  
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Riverside, California 92501
- 11) Forrest Machining, Inc.  
Joanne Butler, CEO  
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Valencia, California 91355
- 12) Graphic Center  
Terence Grimes, CEO  
3925 Power Inn Road  
Sacramento, California 95826
- 13) Gruber Systems, Inc.  
Louis Garasi, CEO  
25636 Stanford Avenue  
Valencia, California 91355
- 14) Haskel International Inc  
Mark E. Petty, CEO  
100 East Graham Place  
Burbank, California 91502
- 15) Jacuzzi Whirlpool Bath, Inc.  
John Allen, Esq.  
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Los Angeles, California 90071
- 16) Los Angeles Chemical Co.  
Jeff Miller, Esq.  
4545 Ardine Street  
South Gate, California 90280
- 17) Los Angeles County Metropolitan Transportation Authority  
Ronald Stamm, Esq.  
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Los Angeles, California 90012

- 18) Mansfield Plumbing Products, LLC  
Allen Lui  
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Sunnyvale, California 94089
- 19) M C Gill Corp.  
Richard McNeil  
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- 20) NeoMPS, Inc.  
Michael Moran  
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San Diego, California 92126
- 21) Opi Products Inc.  
Eric Schwartz, COO  
13034 Saticoy Street  
North Hollywood, California 91605
- 22) Remo, Inc.  
Larry Girtlin, Esq.  
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Woodland Hills, California 91367
- 23) Santa Catalina Island Company  
Robin Campbell, Esq.  
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- 24) Semtech Corp.  
Suzanna Fabos, Esq.  
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- 25) State of California, Dept. of Transportation  
William Evans, Esq.  
100 South Main Street, Suite 1300  
Los Angeles, California 90012
- 26) State of California, Office of State Publishing  
Don Eggleston  
344 North Seventh Street  
Sacramento, California 95814

- 27) Sterigenics EO, Inc. (formerly Griffith Micro Science, Inc.)  
Byron Taylor, Esq.  
Sidley Austin Brown & Wood  
10 South Dearborn Street  
Chicago, Illinois 60603
- 28) Sundance Spas, Inc.  
John Allen, Esq.  
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- 29) Ultra - Flex Moulding Inc.  
Russell Griffith, President  
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Encinitas, California 92024
- 30) Vista Paint Corp.  
John Long  
2020 East Orangethorpe Avenue  
Fullerton, California 92831

## Appendix B

### RESPECTIVE PAYMENT OBLIGATIONS OF RESPONDENTS PURSUANT TO UNILATERAL ADMINISTRATIVE ORDER 9-2005-0014

#### Respondents Resolving Liability Collectively:

1)	Alger Manufacturing Company, Inc.	\$14,330.29
2)	American Fabrication Corp.	\$ 3,912.02
3)	City of Los Angeles, Dept. of Public Works	\$11,810.73
4)	County of Los Angeles	\$ 1,702.76
5)	Duthie Electric	\$ 5,516.79
6)	Epmar Corporation	\$ 5,939.94
7)	EZ Lube, Inc.	\$12,302.97
8)	FedEx Ground Package System, Inc.	\$ 6,074.10
9)	Flint Ink North America Corporation	\$29,949.86
10)	Forrest Machining, Inc.	\$ 5,378.66
11)	Graphic Center	\$ 3,392.43
12)	Gruber Systems, Ins.	\$ 3,738.03
13)	Haskel International Inc	\$11,547.03
14)	Jacuzzi Whirlpool Bath, Inc.	\$13,015.63
15)	Los Angeles Chemical Co.	\$ 5,031.21
16)	Los Angeles County Metropolitan Transportation Authority	\$ 4,461.68
17)	M C Gill Corp.	\$ 3,608.44
18)	NeoMPS, Inc.	\$13,008.19
19)	Opi Products Inc.	\$11,934.59
20)	Remo, Inc.	\$11,607.47
21)	Santa Catalina Island Company	\$ 6,539.89
22)	Sundance Spas, Inc.	\$ 4,528.27
23)	Ultra - Flex Moulding Inc.	\$ 6,230.87
24)	Vista Paint Corp.	\$ 4,798.72 ✓

#### Respondents Resolving Liability Individually:

25)	California Acrylic Inc., d.b.a. CalSpas	\$ 5,896.50 ✓
26)	Sterigenics EO, Inc. (formerly Griffith Micro Science, Inc.)	\$ 6,564.00
27)	Mansfield Plumbing Products, LLC	\$15,000.00
28)	Semtech Corp.	\$ 3,589.50
29)	State of California, Office of State Publishing	\$ 4,444.00
30)	State of California, Dept. of Transportation	\$ 5,538.00